

REMARKS

The Office Action mailed June 22, 2004 has been reviewed and carefully considered.

Claims 1, 10, 21, and 22 have been amended. New Claim 27 has been added. Claims 1-27 are pending in this application.

The drawings have been objected to in the Office Action. Figures 1, 2, and 5 have been amended to now include reference numerals 130 and 590. The amendments are shown in red ink on sheets attached hereto. Moreover, clean copies of the same are also attached hereto. Accordingly, withdrawal of the objection is respectfully requested.

Claims 21-26 stand rejected under 35 U.S.C. §112, second paragraph. Claim 21 has been amended according to the Examiner's suggestion. Accordingly, reconsideration of the rejection is respectfully requested.

Claims 1-7, 10, 12-16, and 21-26 stand rejected under 35 U.S.C. §102(b) as being anticipated by Marietta et al. (hereinafter "Marietta"). Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Marietta in view of Sperber. Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Marietta in view of Barson et al. (hereinafter "Barson"). Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Marietta in view of Morgan. Claims 17, 19, and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Marietta in view of Hendler. Claim 18 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Marietta in view of Hendler as applied to Claim 17, and further in view of Barson.

Applicant respectfully asserts that none of the cited references, either taken singly or in any combination, teach or suggest the different order-independent

combinations of the plurality of individually separable internal pads as being disposed in the pocket of each of the plurality of pad retaining/locating devices so as to provide different thicknesses within the pocket while simultaneously providing cushioning from impact, as recited in amended Claim 1.

In contrast, the only reference cited against Claim 1, namely Marietta, discloses that a single pad (integral cushion filling 11) is formed by combining a first layer (8) and a second layer (10) with an adhesive composition (Marietta, col. 4, lines 53-56). Accordingly, the first layer is not individually separable from the second layer, in contrast to the individually separable pads of the claimed invention.

Marietta further discloses, in another embodiment, that shims 28 may be inserted and removed into and from the pocket 22 to increase or decrease the overall thickness of the respective cushion pad (Marietta, col. 5, line 65 to col. 6, line 6). Thus, Marietta requires shims 28 to adjust the thickness of his pads, thereby requiring two different types of “pads” (actually 3, if the two layers that form 11 are considered to be separate) to implement a final pad set, namely shims 28 and pads 11 (which are composed of layer 8 adhesively bonded to layer 10). In contrast, the present invention employs individually separable internal pads that provide both a thickness adjustment and simultaneous impact cushioning, thereby avoiding the need for separate shims as per Marietta. Moreover, Marietta requires and teaches a specific order in combining/arranging the pads 11 (and even the layers 8 and 10 that form the pads 11) and the shims 28, as the shims are formed of a substantially dense material (Marietta, col. 5, line 67 to col. 6, line 4; see also col. 4, lines 41-44). In contrast, the present invention employs individually separable internal pads that may be combined in different order-independent

combinations. By utilizing a single type of pad (verses two (28, 11) or three (28, 8, 10) as in Marietta) as claimed, the actual combining of pads in the field is simplified in that a user does not need to worry about utilizing the right pad for the right purpose (i.e., shims 28 for thickness adjustments versus pads 11 for cushioning). Further, the user does not have to concern himself or herself with following a pre-described layer/pad/shim ordering as that imposed by Marietta.

Accordingly, Claim 1 is patentably distinct and non-obvious over the cited references for at least the reasons set forth above.

Moreover, Applicant respectfully asserts that none of the cited references, either taken singly or in any combination, teach or suggest “a fastener to secure the relocatable pad outside the headband receiving zone so that during headband use the relocatable pad has an arcuate-shaped edge adapted to be co-linear with a crown section of the headband and a spherical section extending away from the arcuate-shaped edge in a direction towards one of the nape and brow portions and terminating in a crescent shaped edge”, as now recited in amended Claim 21.

In contrast, the only reference cited against Claim 21, namely Marietta, discloses pads 6 and 7 that are arranged perpendicular to a headband receiving zone, although no such zone is actually disclosed or even suggested in Marietta. Moreover, the pads 6 and 7 do not possess the shape characteristics recited in Claim 21. For example, none of pads 6 and 7, or any pads disclosed in Marietta for that matter, have an arcuate-shaped edge adapted to be co-linear with a crown section of the headband and a spherical section extending and extend away from the arcuate-shaped edge in a direction towards

one of the nape and brow portions and terminating in a crescent shaped edge, as recited in amended Claim 21.

Accordingly, Claim 21 is patentably distinct and non-obvious over the cited references for at least the reasons set forth above.

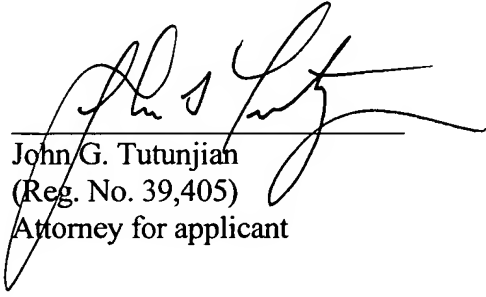
Claims 2-20 depend from Claim 1 or a claim which itself is dependent from Claim 1 and, thus, contain all the limitations of Claim 1. Claims 22-26 depend from Claim 1 and thus contain all the limitations of Claim 1. Accordingly, Claims 2-20 and 22-26 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claims 1 and 21, respectively. Thus, reconsideration of the rejections is respectfully requested.

As noted above, new Claim 27 has been added. Claim 27 depends from Claim 1 and thus contains all the limitations of Claim 1. Accordingly, Claim 27 is patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claim 1. Moreover, Claim 27 is patentably distinct and non-obvious over the cited references in its own right.

In view of the foregoing, Applicant respectfully requests that the rejection of the claims set forth in the Office Action of June 22, 2004 be withdrawn, that pending claims 1-27 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

The fee of \$18 for the additional claim over 20 is enclosed. It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's Deposit Account No. 50-1433.

Respectfully submitted,
KEUSEY, TUTUNJIAN & BITETTO, P.C.



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IN THE DRAWINGS:

Attached hereto please find amended Figures 1, 2, and 5 on two separate sheets for inclusion in the application. The amendments are shown in red ink on the attached sheets for the Examiner's approval. Clean copies of the same are also attached hereto.

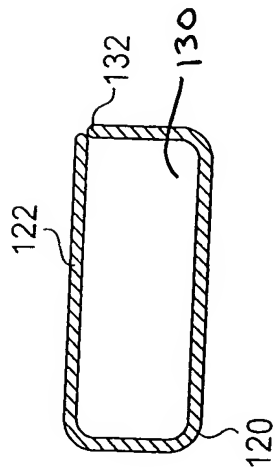


FIG. 1A

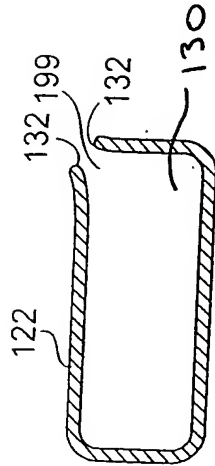


FIG. 1B



FIG. 1C

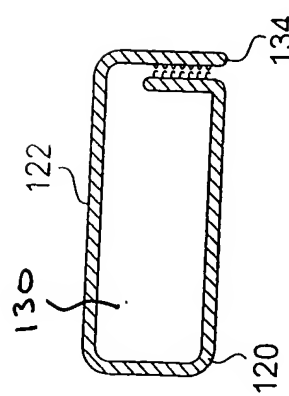


FIG. 2A

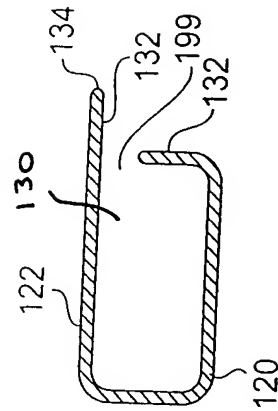


FIG. 2B

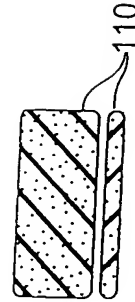


FIG. 2C



HELMET
Inventor's Name: Richard J. Long
Appl'n No: 10/614,995
Attorney Docket: 101-71
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Replacement Sheet

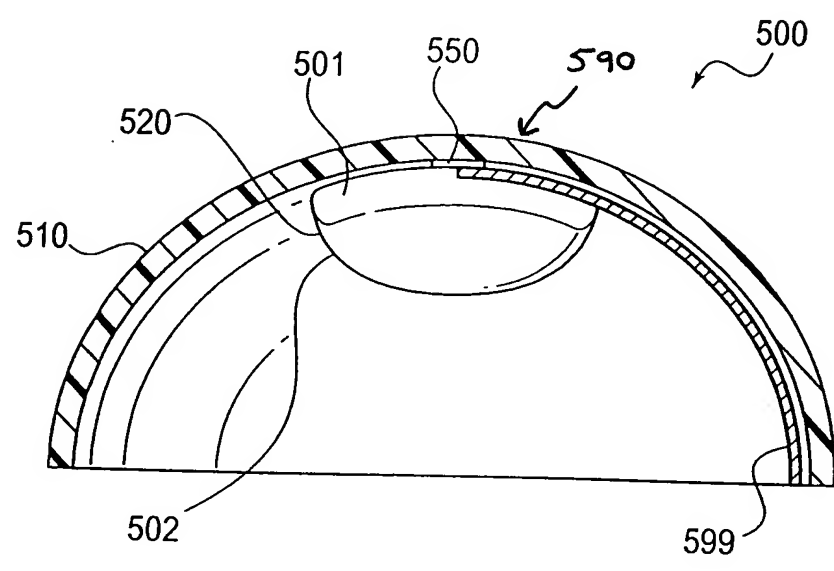


FIG. 5

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